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10/806,599

03/23/2004

Thomas Bostedt

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7590

06/24/2005

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EXAMINER

YEAGLEY, DANIEL S

ART UNIT

PAPER NUMBER

3611

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/806,599

Applicant(s)

BOSTEDT, THOMAS

Examiner

Daniel Yeagley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 7,8,15,16 and 19-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6,9-14,17 and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/9/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

- 1) Applicant's election of invention I, Species A in the reply filed on 4/14/05 is acknowledged.

Because applicant did not distinctly and specifically point out any supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Drawings

- 2) The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because:

- a) they do not include the following reference sign(s) mentioned in the description:

Numeral "46", cited on page 6.

Numeral "53b", cited on page 8.

Numeral "54", cited on page 9.

- b) Figure 13; numerals 59(a) and 59(b) should be reversed.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

- 3) Claims 1, 9 and 12 are objected to because of the following informalities:

Regarding claim 1, the term “*the* tubular support” should be changed to
--a tubular support--.

Regarding claim 9, the term “*the* inner wall” should be changed to --an inner wall--.

Regarding claim 12, the term “*the* tubular extension” should be changed to
--a tubular extension--.

Regarding claim 12, the term “*the* end” should be changed to --an end--.

Appropriate corrections are required.

Claim Rejections - 35 USC § 112

- 4) The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 5) Claims 2, 4 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2 and 9, the terms “*the base plate*” lack antecedent basis.

Regarding claim 4, the term “*its*” is considered indefinite.

Claim Rejections - 35 USC § 102

- 6) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7) Claims 1 – 6, 9 – 14 and 18 are rejected under 35 U.S.C. 102(a) as being anticipated by Henry '608.

Henry shows a trailer hitch retention device (trailer hitch storage apparatus), wherein the device comprises a plate body (mounting plate) having apertures configured to receive fasteners to secure the plate body to a vehicle wall (figure 5 and 6), such that the plate has a horizontal engagement plate connected to an upper end of a base plate configured for attachment of the apparatus to an inner wall of a truck bed wall, wherein the device has at least one support member (receiving bracket extending from the mounting plate with at least one hole for receiving a pin means) having a pair of arms extending from the plate configured to receive a tubular extension (tubular support 22) of a detachable trailer hitch and includes a horizontal extension (hanger {hitch pin device}) projecting from a central region on the plate body configured to fit through a hitch pin hole 26 of the tubular support (figure 2), wherein the horizontal extension (hanger) defines a transverse dimension that is greater than a transverse dimension of the tubular support, wherein the hanger comprises a first section (center post 42) which extends from the mounting plate between a first and a second receiving bracket (figure 3) which is perpendicular to the base plate and includes a second section 44 that would in figure 6 be angled upwardly from the first section and wherein the center post includes a hole (aperture 46) configured to receive an anti-theft device (lock), wherein the integral mounting plate and receiving bracket and the hanger are integral (complete, constituent part¹) when assembled.

¹ *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction

Claim Rejections - 35 USC § 103

8) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9) Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Henry “608 in view of Wilcke ‘426.

Henry as stated above discloses a hitch retention device comprising a plate body with at least one support member configured to receive a tubular extension 22 of a trailer hitch with a horizontal extension which projects from the plate body to fit through a hitch pin hole of the tubular support and includes an aperture at a distal end of the hanger with a securing device being a pad lock (figure 3), but failed to disclose the securing device being a cotter pin.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced the pad lock means of Henry securing means with a more simplistic well known securing means; such a cotter pin device, simply to provide a cheaper, quicker, more readily available, securing means to alternatively secure the tubular support of the hitch to the retention device which would inherently be obvious as a matter of common preference as an alternative securing means which is commonly interchanged with other types of locking device to secure components from detaching.

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Conclusion

10) The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Griggs et al '676, Denman, Jr. '004, Deanda '189 and Mathews '751 show a trailer hitch retention device.


Lemajeur et al '254, Lessard '685, Amstrong '534, Bucko '400, McNalley '014 and Waring '405 show various tubular storage devices.

11) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel Yeagley whose telephone number is (571)-272-6655. The examiner can normally be reached on Mon. - Fri; first Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on (571) - 272 - 6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

D.Y.


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